

REMARKS

In the Final Office Action,¹ the Examiner objected to claims 27 and 38-45; rejected claims 38-45 under 35 U.S.C. § 101; rejected claims 1-14, 17-19, 21, 22, 27, 28, 30-35, 38-42, and 45 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,160,811 to Partridge et al. (“Partridge”) in view of U.S. Patent No. 7,299,353 to Le Pennec et al. (“Le Pennec”); and rejected claims 15, 16, 24-26,² 29, 36, 37, 43, and 44 under 35 U.S.C. § 103(a) as being unpatentable over Partridge in view of Le Pennec, and further in view of U.S. Patent No. 7,185,041 to End, III (“End”).

Claims 1-19, 21, 22, and 24-45 remain pending. Applicant amends claims 1, 10, 24, 27-31, 37, 38, 44, and 45.

In the Office Action, the Examiner objected to claims 27 and 38-45, alleging: “It is unclear whether claim 27 is a system claim or [a] method claim as the claims are directed towards [] method steps. Similarly, [i]t is unclear whether claim 38 [is directed to a] computer readable medium or method claim.” Office Action at 4. Applicant respectfully traverses the objection. Claim 27 is directed to “A system,” as clarified by this Amendment, and claim 38 is directed to a “computer-readable medium.” Applicant therefore respectfully requests that the Examiner withdraw the objection to claims 27 and 38-45.

Applicant respectfully traverses the rejection of claims 38-45 under 35 U.S.C. § 101. The Office Action alleges: “Paragraph 053 of the current application specification discloses that applicant intends to use software as a computer-readable

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

² Although the heading on page 4 of the Office Action does not indicate claim 24 is rejected based on Partridge, Le Pennec, and End, the Office Action rejects claim 24 based on these references on page 5-6.

medium.” Office Action at 2. Applicant respectfully disagrees. Paragraph 53 describes “computer readable media that include program instruction or code” Applicant’s Specification at 20. This distinguishes the media itself from software stored on the media. The media may be included within, for example, a computer, as describe in paragraph 052 of Applicant’s Specification. Accordingly, claims 38-45 properly recite statutory subject matter as a computer-readable medium that stores software. Applicant therefore respectfully requests that the Examiner withdraw the rejection of claims 38-45 under § 101.

Applicant respectfully traverses the rejection of claims 1-14, 17-19, 21, 22, 27, 28, 30-35, 38-42, and 45 under 35 U.S.C. § 103(a) as being anticipated by Partridge in view of Le Pennec. A *prima facie* case of obviousness has not been established at least because the differences between the prior art and Applicant’s claims are such that it would not have been obvious for one of ordinary skill in the art at the time of the invention to modify the prior art to arrive at Applicant’s claimed invention.

Amended claim 1 recites, in part, a “method for addressing packets in a firewall cluster within a single network, the firewall cluster including a plurality of firewall nodes, the method comprising: selecting one of the firewall nodes within the single network for processing a first packet” (emphasis added). The Office Action acknowledges that Partridge does not teach or suggest “selecting one of the firewall nodes for processing a first packet wherein a first processor is associated with the selected firewall node.” Office Action at 5. However, the Office Action relies on Le Pennec for allegedly “teach[ing] selecting one of the firewall nodes for processing a first packet where a first

processor is associated with the selected firewall node.” Id. Applicant respectfully disagrees.

Le Pennec discloses two embodiments for a firewall system. Le Pennec’s first embodiment is prior art illustrated in Fig. 1, which shows a first firewall FW1 12 and a second firewall FW2 14 that are each respectively responsible for “two networks NET1 10 and NET2 16 belonging to two different administrative entities.” Le Pennec, 3:19-23 (emphasis added). The Examiner appears to allege that FW1 and FW2 are within a single “firewall cluster.” However, using two different firewalls for two different networks does not constitute a teaching or suggestion of “a firewall cluster within a single network, the firewall cluster including a plurality of firewall nodes,” as recited by claim 1 (emphasis added).

Le Pennec’s second embodiment is illustrated in Fig. 2 and replaces FW1 12 and FW2 14 with a single FW 20. Le Pennec, Fig. 2, 3:33-40. Even assuming FW 20 constitutes a “firewall node,” which Applicant does not concede, Le Pennec’s second embodiment fails to teach or suggest a “firewall cluster including a plurality of firewall nodes,” as required by claim 1.

Neither Partridge nor Le Pennec, taken individually or in combination, teaches or suggests each and every element recited by claim 1. A *prima facie* case of obviousness has not been established for claim 1 because no reason has been clearly articulated why the claims would have been obvious to one of ordinary skill in view of the cited references. Independent claims 10, 27, 28, 30, 31, 38, and 45, although of different scope than claim 1, patentably distinguish from Partridge and Le Pennec for at least the same reasons as claim 1. Claims 2-9, 11-14, 17-19, 21, 22, 32-35, and 39-42

depend from independent claims 1, 10, 31, or 38 and therefore patentably distinguish from Partridge and Le Pennec for at least the reasons discussed above. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the rejection of claims 1-14, 17-19, 21, 22, 27, 28, 30-35, 38-42, and 45 under 35 U.S.C. § 103(a) as being unpatentable over Partridge in view of Le Pennec.

Applicant respectfully traverses the rejection of claims 15, 16, 24-26, 29, 36, 37, 43, and 44 under 35 U.S.C. § 103(a) as being unpatentable over Partridge in view of Le Pennec, and further in view of End. Claims 15, 16, and 23 depend from independent claim 10 and therefore include all of the elements recited therein. End fails to cure the deficiencies of Partridge in view of Le Pennec discussed above. Accordingly, for at least the reasons discussed above with respect to claim 10, no *prima facie* case of obviousness has been established for claims 15, 16, and 23.

Independent claims 24, 29, 37, and 44, although of different scope than claim 10, patentably distinguish from the cited references for at least the same reasons as claim 10. Claims 25, 26, 36, and 43 depend from independent claims 24, 29, and 37 and are therefore allowable as discussed above. Applicant therefore respectfully requests that the Examiner withdraw the rejection of claims 15, 16, 24-26, 29, 36, 37, 43, and 44 under 35 U.S.C. § 103(a) as being unpatentable over Partridge in view of Le Pennec, and further in view of End.

In view of the foregoing, Applicant requests the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge
any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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Dated: September 25, 2008

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